

BACKGROUND: Senator Carper's Oversight Work on the SAFE Vehicles Rule

On May 1, 2018, Senator Carper called on Department of Transportation Secretary Chao and then-EPA Administrator Scott Pruitt to [reverse course](#) on a leaked draft proposal that would weaken fuel economy and greenhouse gas emissions standards far beyond what even the U.S. auto industry had requested.

The extreme proposal was then released a few months later in August, 2018. Carper blasted the plan, saying that, if finalized, it would create regulatory uncertainty due to likely prolonged litigation for American automakers, and represent a major step back in the fight against climate change. In the months that followed:

- In October 2018, Senators Carper, Dianne Feinstein (D-Calif.) and Ed Markey (D-Mass.) [released documents](#) proving that Congress rejected legislative efforts to preempt or limit California's authority in 2007;
- Also in October 2018, Senator Carper urged Secretary Chao and EPA Administrator Andrew Wheeler to abandon plans to dismantle the clean car standards, [highlighting a non-exhaustive list of 10 major legal deficiencies in the administration's proposal](#);
- In December 2018, Senators Carper and Chuck Schumer (D-N.Y.) [demanded disclosure](#) of the administration's contacts with the oil industry regarding the fuel economy rule, after reporting revealed details of a covert lobbying campaign driven by fossil fuel groups to weaken fuel economy rules and increase demand for oil consumption;
- In May 2019, Senator Carper and House Energy and Commerce Chairman Frank Pallone (D-N.J.) wrote a letter to Administrator Wheeler [demanding documents](#) explaining numerous comments from Administrator Wheeler about EPA's fuel economy rollback that plainly contradict data presented to him by EPA's own experts (May 2019); and,
- In January 2020, Senator Carper led a letter to Paul Ray underscoring the [concerns about the rule that were raised by EPA's own Science Advisory Board](#). Later in January, following a review of a leaked draft final rule obtained by his office, Senator Carper sent another letter to OIRA Administrator Paul Ray, urging him to overhaul or completely abandon the Trump Administration's Part 2 of the Safer Affordable Fuel-Efficient (SAFE) Vehicles. In his letter, Senator Carper outlined some of his most serious concerns with the draft final rule which was submitted to OIRA on January 14, 2020, including concerns that it appeared to be incomplete, resulted in costs to consumers that exceed the purported benefits of the rollback, and did not appreciably improve safety, all while adding vast amounts of harmful greenhouse gas pollution to the environment. **Redlines in the text of the January letter that Senator Carper sent to Paul Ray below show the changes made from the leaked version of the draft final rule received by Senator Carper's office in January 2020. The newest leaked version of the final rule obtained by Senator Carper's office dates from 1-2 weeks ago in March 2020, and could still be subject to change.**

1. **The stringency of the standards is dramatically weakened.** The draft final rule would increase the stringency of the standards by 1.5% per year from model years 2021-26, resulting in a projected fuel economy standard of 47.7 miles per gallon for cars, 34.1 miles per gallon for light trucks and SUVs, and 40.5 miles per gallon for the combined fleet by 2030. While this is a less dramatic rollback than the 0% annual stringency increase that was included in the proposed rule, it still falls well short of the historic average 2.4% per year actual tailpipe efficiency standard increases that the fleet has achieved without the use of any credits or other compliance flexibilities.^[6] These stringency levels would thus likely violate the Energy Policy and Conservation Act, as modified by the Energy Independence and Security Act, which requires the ‘maximum feasible’ fuel economy standard be set each year.^[7]
2. **The costs exceed the benefits.** Remarkably, the costs of the Trump Administration’s draft final rule *exceed* its benefits to Americans relative to the current vehicle fuel economy and greenhouse gas standards. Specifically, the rule is projected to lead to a net *negative* benefit of ~~\$34.4~~ **13.1** billion over the lifetime of the vehicles for DOT’s fuel economy standards and a ~~\$41.3~~ **22** billion net *negative* benefit for EPA’s greenhouse gas standards.^[8] This would seem to fly in the face of rational rulemaking, which requires the benefits to exceed the costs, not the other way around. It also conflicts with what you said^[9] your OIRA role would require you to ensure during your confirmation hearing, which was that “What an agency should achieve in cost-benefit analysis is really, really two goals. One is to ensure that the regulation is net beneficial and two its full transparency with the public. And so while it may be enough for the first goal, just to show the benefits of exceed cost, it's not enough for the second...”
3. **The vehicles are not affordable.** While the draft final rule finds that the per vehicle purchase price would be reduced relative to the Obama rules by \$977 (EPA greenhouse gas standards)/\$1,083 (DOT’s fuel economy standards), the draft final rule also projects that the increased gasoline consumers would have to use to operate the less fuel-efficient vehicles would add \$1,461 (EPA greenhouse gas standards)/\$1,423 (DOT fuel economy standards) to these costs.^[10] Adding hundreds of dollars to the cost of each vehicle would seem to be the opposite of the more “Affordable” vehicles the SAFE rule promised.

^[6] See the table at the end of <https://www.carper.senate.gov/public/index.cfm/2018/10/carper-urges-chao-wheeler-to-abandon-plan-to-dismantle-clean-car-standards>

^[7] 49 U.S.C. 32902(a)

^[8] The numbers cited assume a 3% discount rate, which is viewed as a more realistic measure than the 7% discount rate that was also modeled in the draft final rule. ~~Net-negative \$16.1 billion~~ in benefits are ~~also~~ projected for the fuel economy standards assuming a 7% discount rate, while the greenhouse gas standards are projected to have ~~a very slightly positive \$6.4 billion in~~ net benefits assuming a 7% discount rate.

^[9] <https://plus.cq.com/doc/congressionaltranscripts-5785310?0>

^[10] The numbers cited assume a 3% discount rate, which is viewed as a more realistic measure than the 7% discount rate that was also modeled in the draft final rule. The cost increases associated with a 7% discount rate are projected to be \$1,110 (fuel economy standards) and \$1,143 (greenhouse gas standards).

4. **There is no appreciable safety benefit.** While Trump Administration officials said when it transmitted the final rule to OIRA^[11] that it would save “thousands of lives and reduce the number of Americans seriously injured in car crashes,” the draft final rule claims a *total* benefit of ~~471 685~~ lives saved (EPA greenhouse gas standards)/~~474 724~~ lives saved (DOT fuel economy standards) in its cost-benefit analysis, as calculated over a decades-long 1977-2029 time period. However, this number does not include **the projected 440-990** premature mortalities associated with the increase in air pollution that the less-efficient vehicles will emit **that are described in the documents accompanying the rule.**^[12] Thus, it is difficult to see how the SAFE rule cost-benefit analysis can possibly be used to justify the rollback on the grounds that these vehicles are “Safer.”
5. **The vehicles are not more fuel-efficient:** The draft final rule projects that the standards will lead to the use of 78 billion (EPA greenhouse gas standards)/84 billion (DOT fuel economy standards) more gallons of gas and the emission of 867 million (EPA greenhouse gas standards)/923 million (DOT fuel economy standards) additional metric tons of CO₂. Thus, the rules will cause significant damage to the environment without providing any of the purported safety and economic benefits the Trump Administration has cited as the reason for the rule.
6. **The only new compliance flexibilities are those supported by fossil-fuel producers.** While almost every automobile and parts manufacturer and numerous other stakeholders requested that the final rule include new or extensions of compliance credits and other flexibilities, the draft final rule refuses the majority of these requests. Instead the agencies have largely chosen to retain the current rules’ compliance mechanisms rather than adopt measures to extend electric vehicle multipliers or allow more compliance credits to be earned for installing so-called off-cycle technologies that have demonstrable environmental benefits. There are only ~~two~~ **three** new compliance mechanisms that the agencies propose to include. First, the agencies have agreed to extend (to 2026) a credit that assigns a value of zero to the upstream emissions from non-zero emitting power sources used to charge electric vehicles (such as coal-fired or natural gas power plants). Second, the draft final rule includes more compliance credits for dual-fuel natural gas vehicles by ~~codifying an assumption that the vehicles are solely driven using natural gas even if they are not, while also~~ changing the eligibility requirements for these credits in a way that removes ~~any~~ **the** assurance that **these vehicles will be primarily or even significantly powered by natural gas they will ever be driven using natural gas at all** (policy changes that were also repeatedly requested [13],[14] by elected officials close to the Trump Administration). **Finally, while the final rule continues to reject the request made by every single automaker, parts manufacturer and many utilities to extend the electric vehicle multiplier credit (set to phase out in 2021) until 2026, it creates a new natural gas vehicle multiplier from 2022-26.** These new flexibilities are unlikely

^[11] <https://www.detroitnews.com/story/business/autos/2020/01/15/trump-administration-moves-finalize-fuel-economy-rollback/4476146002/>

^[12] In the Draft Environmental Impact Statement for the proposed rule (see page 161 of https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld_cafe_my2021-26_deis_0.pdf), alternative four (the closest alternative to the stringency levels in the draft final rule) was estimated to lead to 64-145 premature deaths each year by 2035 attributable to increased air pollution compared to the Obama rules.

to more than modestly alter the manner in which the standards must be complied with. However, it is notable that of all the many requests for additional compliance flexibility that were made (including requests that would have further incentivized vehicle electrification and the adoption of greenhouse-gas reducing technologies), the only ~~two~~ **ones** that were granted were those supported by fossil-fuel interests.

- In February 2020, Senator Carper asked the EPA Inspector General to [open an investigation into potentially unlawful efforts and procedural problems](#) related to the preparation and review of the draft rule. His request came after his office received reports of seemingly purposeful and potentially unlawful efforts on the part of EPA political officials to avoid the standard processes and statutory requirements associated with proposing and finalizing these two high-profile rules, including potential efforts to conceal documents that should eventually be made public.

###